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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON
Honorable Edward F. Shea

UNITED STATES,

Plaintiff,

v.

DARRIN LEE RUDDELL,

Defendant.

No. 16-CR-006028-EFS

SENTENCING MEMORANDUM

1 **I. INTRODUCTION**

2 Darrin Ruddell takes issue with the Guideline range within the Presentence
3 Report; some of the supervised release conditions; and the amount of restitution
4 requested by the alleged and actual victims. This sentencing memorandum deals
5 with the Guideline issues, the §3553(a) factors as to why an 11-year sentence is
6 sufficient but not greater than necessary to meet the sentencing factors within
7 §3553(a), and supervised release conditions. Mr. Ruddell files separately a
8 challenge to the restitution and request for an evidentiary hearing.

9 **A. Guideline Objection**

10 In the event the Court accepts the 11(c)(1)(C) agreement, the objection to the
11 Guideline calculation contained within the PSR has less significance. The
12 11(c)(1)(C) sentence represents a 3-month downward variance from the Guidelines
13 as found by the parties.¹

14 The PSR finds a Total Offense Level 37/Category I and a Guideline range of
15 210 to 262 months. The PSR finds a 5-level increase under §2G2.2(b)(5) because
16 “the defendant engaged in a pattern of activity involving the sexual abuse or
17 exploitation of a minor.” (PSR, at 11). Mr. Ruddell objects to this enhancement.

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19 ¹ There is an argument that an additional 2-level reduction is appropriate because Mr. Ruddell
neither trafficked nor distributed any images. (*See*, §2G2.2(b)(1) This reduction lowers the
Guideline range to 97 to 121 months. The 11(c)(1)(C) agreement represents an 11-month upward
variance from the top of this Guideline range.

1 Mr. Ruddell pled guilty to receipt of child pornography. He did not plead
2 guilty to, nor are there any admissions within the plea agreement or in the PSR that
3 he manufactured or produced child pornography. Thus, there is insufficient basis to
4 find that the 5-level enhancement for pattern of activity, is appropriate.

5 **B. Section 3553(a) factors**

6 Darrin Ruddell is a soft-spoken, quiet man who prior to this offense, had
7 never been arrested before. Like so many men before him, his path to possessing
8 child pornography was not direct. It was not a pedophilic desire. It began with
9 adult pornography that he and his wife enjoyed. For Darrin, it moved beyond that.
10 Viewing pornography on the internet became his leisure activity. It became an
11 obsession. Accessing adult pornography on the internet is a slippery slope, leading
12 from adult to child pornography.

13 Looking back, Darrin believes the sexual abuse perpetrated by his older
14 brother may have had a more profound effect on him than he previously believed.
15 Before his arrest, he had begun talking about the abuse with his wife, but never
16 received counseling. A sufferer of adult on-set depression, he stopped taking
17 medication after consultation with his doctor. It was during this time that viewing
18 pornography began taking over his life. He could feel his depression deepening and
19 in some odd manner, pornography was a way of escaping. Prior to this period in his

1 life, Darrin was not involved in any inappropriate behavior with children, child
2 pornography, or any other offense involving children.

3 Recognizing his need for counseling and treatment since his arrest, he
4 resumed taking his depression medication, and has reconnected to some degree
5 with the Church of Latter Day Saints, the church of his childhood. He finds these
6 meetings comforting.

7 Counseling for depression, drug addiction and sex offender treatment will
8 provide an effective means of preventing recidivism. According to the Center for
9 Sex Offender Management (“CSOM”), a project funded by the United States
10 Department of Justice, Office of Justice Programs, some recent studies show that
11 appropriate “treatment interventions . . . are associated with lower rates of
12 recidivism – some of them very significant.” CSOM, *Sex Offender Treatment in the*
13 *Context of Supervision: Effectiveness of Sex Offender Treatment* (“Review of the
14 Research”), http://www.csom.org/train/supervision/ling/04_02_02.html
15 (discussing several studies showing effectiveness of sex offender treatment).

16 Mental health counseling and sex offender treatment will do far more to
17 protect the public against any future crime than a lengthy prison sentence.

1 **C. Supervised release conditions**

2 Mr. Ruddell objects to the recommended special condition #1 in part (no
3 contact with children under 18). Darrin has a young son. His son will be a teenager
4 upon Mr. Ruddell's release. He asks this Court to exclude Mr. Ruddell's son from
5 this condition. There is no indication or evidence that Mr. Ruddell is drawn to male
6 children. In addition, none of the photographs contained images of male children.
7 This provision that prevents direct contact with all children, even his own, will have
8 a significant impact on his family.

9 Upon his release, Mr. Ruddell hopes to live with his now ex-wife and his
10 teenage son.² She is very supportive and remains a constant in his life. As the
11 Court knows, a stable living environment is one of the single most important factors
12 for successful reintegration into society after a term of imprisonment.

13 Mr. Ruddell objects to what is now # 9 (#10 in the draft PSR) which prevents
14 him from possessing any type of camera or video recording device. He will be on
15 supervised release for 30 years. The probation department will have access to his
16 home and computer devices, which can just as easily include his camera. To
17 prevent Mr. Ruddell from recording important events or people in his life, such as
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² But for his son, by the time he is released from prison, Mr. Ruddell's children and step children
will be over 18.

1 the high school graduation of his son, or his wife's smile; to prevent him from
2 recording his life experiences such as the sunrise, the snow-capped mountains or
3 Christmas, is an excessive and unnecessary condition of his supervised release.

4 Mr. Ruddell had objected to what is now #13 (#12 in the draft PSR) but
5 withdraws that objection.

6 **II. CONCLUSION**

7 Mr. Ruddell asks this Court to accept the 11(c)(1)(C) agreement of 11-year in
8 prison followed by a 30-year term of supervised release. He also asks this Court to
9 recommend the Residential Drug Abuse Program (RDAP), sex offender treatment
10 and mental health counseling.

11 Dated: June 5, 2017.

12 Federal Defenders of Eastern Washington & Idaho
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SERVICE CERTIFICATE

I certify that on June 5, 2017, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System, which will notify Assistant United States Attorneys: Laurel Holland.

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